

## Comment Letter 0052 Continued

Chairman Petrillo, Mr. Mehdi, Mr. Rutter, and Members of the High Speed Rail Authority  
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In the 1950s, transportation authorities ran a freeway through beautiful Hollenbeck Park in disproportionately Latino East L.A.<sup>58</sup> Today the largest open space in East L.A. is Evergreen Cemetery.<sup>59</sup>

In the 1970s the Center for Law in the Public Interest filed a lawsuit on environmental quality and civil rights grounds against the Century Freeway in what is now recognized as one of the earliest environmental justice victories in the country. The litigation continued for over 30 years and resulted in massive programs including the creation of jobs, affordable housing, and public transit to distribute the benefits and burdens of the project more fairly.<sup>60</sup>

The Los Angeles County Metropolitan Transportation Authority settled the historic civil rights and environmental justice lawsuit filed by the NAACP Legal Defense & Education Fund, Inc., alleging that MTA operated separate and unequal bus and rail systems that discriminated against the working poor and low income communities of color by agreeing to invest what now amounts to over \$2 billion in the bus system. See Robert García and Thomas A. Rubin, "Crossroad Blues: The MTA Consent Decree and Just Transportation," chapter in Karen Lucas, ed., *Running on Empty: Transport, Social Exclusion and Environmental Justice* (2004).

### IV. Implementing the Vision and Values

#### A. Environmental Justice, the Cornfield, and Taylor Yard

The State Park Comments recognize that "[p]roposed alternative HST corridors impacting both the Taylor Yard and Cornfield properties clearly raise the environmental justice issue."<sup>61</sup>

The Center for Law in the Public Interest has long documented the environmental justice impacts of environmental degradation in the Cornfield and Taylor Yard communities. See Robert García et al., *The Cornfield and the Flow of History: People, Place, and Culture* (2004);<sup>62</sup> Robert García et al., *Dreams of Fields: Soccer, Community, and Equal Justice*, Center for Law in the Public Interest (2002).<sup>63</sup> Accord, *Cornfield State Park Advisory Committee, Recommendations Report: Vision, Themes, Community* (2003).<sup>64</sup>

The State Park Comments describe these environmental justice concerns in detail:

The Cornfield property was the site of a recent hard-fought community battle to stop industrial development and secure the site for badly needed public open space. Purchased by California State Parks for \$33 million, the site will be transformed from a

<sup>58</sup> See [www.usc.edu/neighborhoods/hsc/parks](http://www.usc.edu/neighborhoods/hsc/parks).

<sup>59</sup> See, e.g., Miguel Bustillo, *Former Foes Unite Behind a Proposal to Turn Old Reservoir Site into Park*, L.A. Times, Jan. 15, 2004.

<sup>60</sup> See, e.g., Bill Lann Lee, *Civil Rights and Legal Remedies: A Plan of Action*, chapter in Robert D. Bullard & Glenn S. Johnson, *Just Transportation* 156, 157 (1997); *Keith v. Volpe*, 858 F. 2d 467 (9<sup>th</sup> Cir. 1988); 506 F.2d 696 (9<sup>th</sup> Cir. 1974).

<sup>61</sup> State Park Comments at 32.

<sup>62</sup> Available on the web at [www.clipi.org](http://www.clipi.org).

<sup>63</sup> *Id.*

<sup>64</sup> Available on the web at <http://www.parks.ca.gov/pages/21491/files/RecommendationsReport.pdf>

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former rail yard and brownfield into a verdant park and gathering place to celebrate, examine, and experience over 10,000 years of history and culture of Los Angeles. It has long been considered one of the most important cultural sites in Los Angeles, as it is tied closely to the story of the area from the earliest human settlements. Indigenous Native American tribes lived in the area for as long as 9,000 years. The site includes portions of the village of Yangna, the site for Spanish colonization of the area with the establishment of El Pueblo de Los Angeles. Also found here are fragments of "Zanja Madre" (the original water system dating from 1789 that supplied water to Spanish settlement of El Pueblo de Los Angeles), and other archeological sites with significant subsurface historic structures . . .<sup>65</sup>

If the HST alignment tunnels under the park entirely and emerges towards the downtown area in a way that conflicts with the view of downtown Los Angeles, the notion of Cornfield as a vantage point for a welcoming view of the city will be seriously compromised. Substantial mitigation would have to be established, perhaps involving far more tunneling than currently envisioned for this alignment. If the HST alignment involves emerging from the tunnel while on the Cornfield site, the open space and related recreation values of the property will be diminished along with the view. This alignment particularly threatens future uses including recreational open space and the proposed Los Angeles History Interpretive Center of Statewide significance. If the HST alignment involves an elevated line that crosses the river to the south of the Cornfield site, the view of downtown Los Angeles from the site could be compromised.<sup>66</sup>

Recreation at the Taylor Yard property could be compromised if the HST project follows an elevated rail line along the northeastern park boundary as proposed. That alternative may interfere (visually and through disturbances caused by additional passing trains) with the intent of the park plan to provide a natural setting for recreation as a respite from urbanization.<sup>67</sup>

The DEIS/R also fails to address the safety issue of the HST alternative traveling near or through a park. In addition to pollution, noise, and soccer balls rolling toward RR tracks, the risk of derailments must be considered.

#### B. Land Use and Planning, Communities and Neighborhoods, Property, and Environmental Justice

The DEIS/R fails to adequately address environmental justice impacts. A revised DEIS/R must fully address these potential impacts in compliance with Order DOT 5610.2 and other applicable guidelines. The discussion of these impacts is largely and inappropriately deferred until project-level review occurs. This approach renders it impossible to redirect alignments or stations based on environmental justice impacts because it will be too late.

<sup>65</sup> State Park Comments at 31.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 30.

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The DEIS/R addresses the impacts on land uses. "The potential compatibility of the alternatives with existing land use is evaluated based on the potential sensitivity of various land uses to the changes which would be included with the Modal and HST Alternatives, and the potential impact of these changes on existing and planned land uses."<sup>68</sup> Under this means of evaluation, alignment choices with in the existing right of way are always considered low impacts.<sup>69</sup> This appears to underestimate the actual impacts of the project. HST alignments that travel within existing rights of way may still pose new, or magnify existing, negative impacts on surrounding communities and resources. These potentially significant impacts are inadequately addressed in the DEIS/R.

The study area for land use compatibility is .25 miles on either side from the centerline of the rail, stations, and other potential HST related facilities.<sup>70</sup> For property impacts, the study area is 100 feet on either side of the centerline.<sup>71</sup> Realistically speaking, a property that is 150 feet or 200 feet from a train speeding by at 200 miles per hour ("mph") eight times a day will be significantly impacted by those occurrences. Both of these study areas need to be expanded to adequately assess potential impacts.

The DEIS/R also addresses the impacts on environmental justice communities. The study area for environmental justice communities is .25 miles on either side from the centerline of the rail, stations, and other potential HST related facilities.<sup>72</sup> This study area also needs to be expanded to adequately assess the impacts from the HST. A more appropriate area for assessing such impacts would be the same area used to identify a community as an environmental justice community. Expanding the study area in this manner would provide a more accurate review of the communities impacted by the project.

Even within this limited study area, the discussion of environmental justice impacts in the DEIS/R does not comply with existing laws and regulations. For example:

Planning and programming activities that shall have the potential to have a disproportionately high and adverse effect on human health or the environment shall include explicit consideration of the effects on minority populations and low-income populations. Procedures shall be established or expanded, as necessary, to provide *meaningful opportunities for public involvement by members of minority populations* and low-income populations during the planning and development of programs, policies and activities.<sup>73</sup>

In spite of this specific guidance, there is little analysis of environmental justice concerns, or specific discussion of efforts to "provide meaningful opportunities for public involvement by members of minority populations and low-income populations." This is troubling considering many of the proposed HST station stops are located "within a minority population." A supplement to the DEIS/R

<sup>68</sup> DEIS/R at 3.7-2.

<sup>69</sup> See DEIS/R at 3.7-4 (Table 3.7-2).

<sup>70</sup> DEIS/R at 3.7-5.

<sup>71</sup> DEIS/R at 3.7-5.

<sup>72</sup> DEIS/R at 3.7-5.

<sup>73</sup> U.S. Department of Transportation, *Environmental Justice in Minority Populations and Low-Income Populations*, Order DOT 5610.2 (emphasis added).

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should engage communities around potential HST alignment and station stops to more fully assess and address environmental justice concerns.

The DEIS/R fails to discuss any measures to mitigate the impacts HST will have on land use or environmental justice communities. Instead the draft saves for the project level analyses discussion of consistency with existing and planned land use, neighborhood access needs, multi-modal connectivity opportunities, and outreach to potential environmental justice communities.<sup>74</sup> For the Authority and the FRA to present an adequate and accurate analysis of the impacts that the HST will impose, and measures that will mitigate that impact, these issues need to be explored in the DEIS/R.

### C. Recreation and Human Health

The proposed project has the potential to cause physical changes in the state's recreation environment. The HST also raises serious safety concerns for children, families, and individuals who participate in recreational activities. The impact on the environment for recreation is not discussed or analyzed in a single location. Disparate parts of the DEIS/R discussing recreation should appear in a separate recreation chapter. The loss of or significant impact to recreation should be considered a socio-economic effect. The DEIS/R should analyze socioeconomic and environmental justice impacts and propose mitigation for the effect that the loss of recreation will have on local economies.<sup>75</sup>

#### 1. Recreation

As the State Park Comments emphasize:

The importance of recreation in modern society cannot be overestimated. The opportunity to alter the pace of modern life and experience historic and natural settings or more actively participate in outdoor activities has been shown to improve societal well-being by maintaining the physical and emotional health and wellness of individuals and contributes to reduction in crime. Recreational activities on State, local, and regional parklands, open space, and trails provide strong support for community values and serves as a mechanism and social bridge for integrating people of all races, ages, incomes, and abilities. These lands educate, challenge, inspire, and entertain our children, offer safe and secure places for families and seniors, protect and conserve our natural and cultural resources. They also help to strengthen and stimulate California's economy through recreation-related sales of clothing, equipment, fees and services and the revenues generated from the tourism and hospitality industries. As California's population is expected to grow by nearly 30% in the next quarter century, the demand for recreational resources and open space to support this population demand as well as increased efforts to protect existing lands dedicated to this recreation purpose.<sup>76</sup>

<sup>74</sup> DEIS/R at 3.7-26, 27.

<sup>75</sup> Cf. State Park Comments at 9-11.

<sup>76</sup> *Id.* at 11. See generally Robert Garcia et al., *Dreams of Fields: Soccer, Community, and Equal Justice*, Center for Law in the Public Interest (2002) ([www.clipi.org](http://www.clipi.org)).

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### 2. Health and Recreation

The human health implications of the need for active recreation in the Cornfield and Taylor Yard are profound. See generally Robert Garcia *et al.*, "Healthy Children, Healthy Communities: Schools, Parks, Recreation, and Sustainable Regional Planning," *Fordham Urban Law Journal Symposium on Urban Equity* (forthcoming fall 2004).

If current trends in obesity, inactivity, and disease continue, today's youth will be the first generation in this nation's history to face a shorter life expectancy than their parents.<sup>77</sup> Adult onset diabetes now increasingly strikes children at younger and younger ages. As a result, children are more likely to suffer long range effects including death, loss of limbs, and blindness. This health crisis currently costs the U.S. over \$100 billion and 400,000 deaths each year.

In California, 27% of children are overweight and 40% are unfit.<sup>78</sup> Only 24% of the state's fifth-seventh- and ninth-graders met minimal physical fitness standards last year.<sup>79</sup> The numbers are even lower within LAUSD, where just 17% of fifth-graders, 16% of seventh-graders, and less than 11% of ninth-graders met all six of the minimum fitness standards in the 2002-2003 school year.<sup>80</sup> Over 91% of the students in LAUSD are students of color. The assembly districts with the highest proportion of overweight children in California also have the highest concentration of people of color.<sup>81</sup>

There is not adequate open space for recreation in Southern California, particularly for inner city residents.<sup>82</sup> All communities suffer from obesity and inactivity, but communities of color and low income communities suffer first and worst. Communities of color and low-income communities are disproportionately denied the benefits of safe open spaces for recreation, and disproportionately suffer from diseases related to obesity and inactivity.

<sup>77</sup> Eloisa Gonzalez, MD, MPH, (Jan. 21, 2004), L.A. County Dep't of Public Health, *Los Angeles Unified School District (LAUSD) Citizens' School Bond Oversight Committee*; see also Jennifer Radcliffe, *Going to War against Epidemic of Childhood Obesity*, Daily News, Jan. 27, 2004, at 1.

<sup>78</sup> Press Release, CA Dept. of Educ., *State Schools Chief O'Connell Announces California Kids' 2002 Physical Fitness Results*, (Jan. 28, 2003) [hereinafter *California Kids*]. In California, all students in grades 5, 7, and 9 are required to take the California Fitness Test in order to assess physical fitness in six health fitness areas: aerobic capacity, body composition, abdominal strength, trunk extension strength, upper body strength and flexibility. *Id.* Students must meet all six standards in order to be considered fit. *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Cara Mia DiMassa, *Campus Crowding Can Make P.E. a Challenge*, L.A. Times, Nov. 19, 2003, Metro Part B, at 2.

<sup>81</sup> California Center for Public Health Advocacy, *An Epidemic: Overweight and Unfit Children in California Assembly Districts*, 5 (Dec. 2002) [hereinafter *An Epidemic*], available at <http://www.gisplanning.net/publichealth/help.asp>.

<sup>82</sup> See Richard J. Jackson, MD, MPH and Chris Kochitzky, MSP, *Sprawl Watch Clearinghouse Monograph Series, Public Health/Land Use Monograph, Creating a Healthy Environment: The Impact of the Built Environment on Public Health* [hereinafter *Jackson*], available at <http://www.sprawlwatch.org/health.pdf>.

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### OVERWEIGHT AND UNFIT CHILDREN IN CALIFORNIA<sup>83</sup>

RACE/ETHNICITY	OVERWEIGHT	UNFIT
Latino	34%	45%
African American	29%	46%
White	20%	34%
Asian	18%	36%

### DIABETES IN CALIFORNIA<sup>84</sup>

RACE/ETHNICITY	AGE 18+	AGE 50-64
African American	10%	21%
American Indian and Alaskan Native	9%	20%
Latino	6%	18%
White	6%	8%
Asian and Native Hawaiian and Other Pacific Islanders	5%	11%

The benefits of open space extend beyond physical health. Research links open green spaces to improved mental health. For example, symptoms of children with attention deficit disorder ("ADD") are relieved by contact with nature.<sup>85</sup> Views of nature benefit the mental health of children without ADD as well. African-American children in low-income inner city environments, and non-Hispanic white children from high income families, concentrate better with views of open space.<sup>86</sup> Girls score higher on self discipline tests when taken with a natural view.<sup>87</sup>

The state of California currently does not adequately enforce its physical education requirements.<sup>88</sup> Physical education classes have so many students that teachers cannot give students the individual attention they need.<sup>89</sup> The average student-teacher ratio is 43-1, far exceeding the national recommendation of 25-1.<sup>90</sup> In LAUSD, middle school physical education classes average 55 to 65 students per class, with some gym classes exceeding 70 students per teacher.<sup>91</sup> As a result, students in physical education sessions may spend more time standing on the sidelines waiting their turn, rather

<sup>83</sup> Source: California Center for Public Health Advocacy, *An Epidemic: Overweight and Unfit Children in California Assembly Districts* (Dec. 2002).

<sup>84</sup> Source: UCLA Center for Health and Policy Research, *Diabetes in California: Findings from the 2001 Health Interview Survey*.

<sup>85</sup> A. Faber Taylor, *et al.* "Coping with ADD: The surprising connection to green play settings," *Environment & Behavior* 33, 54-77 (2001).

<sup>86</sup> *Id.* See also A. Faber Taylor, *et al.*, "Views of Nature and Self-Discipline: Evidence from Inner City Children," *Journal of Environmental Psychology* (2001).

<sup>87</sup> *Id.*

<sup>88</sup> Vicki Kemper, *New Priorities Leave PE, Obese Children Behind*, L.A. Times, Sept. 15, 2003, quoting Dianne Wilson-Graham, director of physical education in California.

<sup>89</sup> U.S. Dept. of Health and Human Services and U.S. Dept. of Education, *Promoting Better Health for Young People Through Physical Activity and Sports*, 11 (Fall 2001) [hereinafter "Promoting Better Health for Young People"], available at [http://www.cdc.gov/ncepdphp/dash/physicalactivity/promoting\\_health/index.htm](http://www.cdc.gov/ncepdphp/dash/physicalactivity/promoting_health/index.htm).

<sup>90</sup> Cara Mia Dimassa, *Campus Crowding Can Make PE a Challenge*, L.A. Times, Nov. 19, 2003, at B2.

<sup>91</sup> *Id.*

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than actually participating in activity.<sup>92</sup>

Regular physical activity is associated with enhanced health and reduced risk for all-cause mortality, heart disease, diabetes, hypertension, and cancer.<sup>93</sup> Physical activity for children and adolescents helps to build and maintain healthy bones, muscles, and joints; prevent or delay the development of high blood pressure; and reduce feelings of depression and anxiety.<sup>94</sup> People who are inactive are twice as likely to experience symptoms of depression as are more active people.<sup>95</sup> Depression can lead to suicide, the ninth-leading cause of death in America. Physical activity relieves symptoms of depression and anxiety and improves mood by providing opportunities for social interaction, increased feelings of self-mastery and self-efficacy, and relief from daily stress.

Programs in the Cornfield and Taylor Yard can make a difference in students' lives and health. Physically fit students perform better academically.<sup>96</sup> Recreation programs can build character, pride, self esteem, teamwork, leadership, concentration, dedication, fair play, mutual respect, social skills, and healthier bodies for children.<sup>97</sup> Recreation programs can help keep children in school; develop academic skills to do better in school and in life; and increase access to higher education.<sup>98</sup> Male athletes are four times more likely to be admitted to Ivy League colleges than are other males; for female recruits, the advantage is even greater.<sup>99</sup>

Recreation programs provide alternatives to gangs, drugs, violence, crime, and teen sex. A national survey of more than 14,000 teenagers found that those who took part in team sports were less likely to have unhealthy eating habits, smoke, have premarital sex, use drugs, or carry weapons.<sup>100</sup> The Los Angeles County District Attorney concluded that among the reasons young people join gangs is "[the exclusion] by distance and discrimination from adult-supervised park programs."<sup>101</sup> The study recommends that "alternative activities like recreation" should be part of every gang prevention strategy.<sup>102</sup>

<sup>92</sup> Prevention Institute, *Strategies for Action: Integrating Nutrition and Physical Activity Promotion to Reach Low-Income Californians* 11 (October 2001), available at <http://www.preventioninstitute.org/nutrapp.html>.

<sup>93</sup> U.S. Dept. of Health and Human Services, *Physical Activity and Health: A Report of the Surgeon General*, 236 at 7, 85-87, 90-91, 102-03, 110-12, 127-30, 135 (1997) [hereinafter "*Surgeon General*"], available at <http://www.cdc.gov/nccdphp/sgr/pdf/sgrfull.pdf>.

<sup>94</sup> *Promoting Better Health for Young People*, *supra*, at 7.

<sup>95</sup> *Surgeon General*, *supra*, at 135-36, 141.

<sup>96</sup> Press Release, CA Dep't of Educ., *State Study Proves Physically Fit Kids Perform Better Academically*, (Dec. 10, 2002), available at <http://www.cde.ca.gov/news/releases2002/rel37.asp>.

<sup>97</sup> See Anastasia Loukaitou-Sederis & Orit Stieglitz, *Children in Los Angeles Parks: A Study of Equity, Quality, and Children Satisfaction with Neighborhood Parks*, *Town Planning Review* 1-6 (2002).

<sup>98</sup> *Id.*

<sup>99</sup> See William G. Bowen *et al.*, *Reclaiming the Game: College Sports and Educational Values* (2003).

<sup>100</sup> Russell R. Pate *et al.*, *Sports Participation and Health-Related Behaviors Among US Youth*, *Archives of Pediatrics and Adolescent Medicine* (Sept. 2000).

<sup>101</sup> L.A. District Att'y, *Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District Attorney's Office* (1992).

<sup>102</sup> *Id.*

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### 3. Economic Costs of Obesity and Inactivity

The Surgeon General estimates the national cost of overweight and obesity in the year 2000 to have been \$117 billion, with \$61 billion in direct costs (including preventive, diagnostic, and treatment services related to overweight and obesity) and \$56 billion in indirect costs (the value of wages lost by people unable to work because of illness or disability, as well as the value of future earnings lost by premature death).<sup>103</sup>

The DEIS/R must analyze the impact of various alternatives on human health and recreation in fitness and economic terms.

### D. Cultural and Heritage Resources

The California Department of Parks and Recreation has published a study emphasizing the public's need to become more aware of California's cultural diversity and its tangible manifestations on our land. *Five Views: An Ethnic Sites Survey for California* (1982) can serve as a guide for addressing the impacts of the HST on the cultural and heritage resources in state parks like the Cornfield and Taylor Yard.<sup>104</sup>

From the time of the Tongvas, who built the village of Yangna near the Cornfield, the Cornfield and its surroundings have been a place imbued with the diverse history of Los Angeles.<sup>105</sup> The Tongva Indians settled the area near the Cornfield and Taylor Yard before the arrival of the Spaniards. According to Chief Anthony Morales and tribe member Mark Acuna, Tongva families played "shinny," a game similar to soccer, and enjoyed other field sports along the river. Chief Morales and Mr. Acuna support the importance of positive active recreation for children along the Los Angeles River today.

"California's native games and toys are a reflection of the natural history of the state—its mountains, rivers, deserts, wetlands, woodlands, and seashore—and California's first people."<sup>106</sup> Native Californians had a "passion for football-type games."<sup>107</sup> They "drove, tossed, or batted balls of mountain mahogany, braided buckskin, or polished stone, stuffed deerhide or seasoned laurel knots."<sup>108</sup> In most shinny- and soccer-like games, teams tried to score by getting the ball past the other team and through goal posts, or through a hole.<sup>109</sup> Soccer-like games involving balls and goal posts were river games—games played along river beds throughout California.<sup>109</sup>

The vision for the planned state park in the Cornfield is based, in large part, on the essential themes of

<sup>103</sup> U.S. Dept. of Health and Human Services, *The Surgeon General's Call to Action To Prevent and Decrease Overweight and Obesity* 9-10 (2001) [hereinafter "*Call to Action*"], available at <http://www.surgeongeneral.gov/topics/obesity/calltoaction/CalltoAction.pdf>.

<sup>104</sup> *Five Views* is available online at [http://www.cr.nps.gov/history/online\\_books/5views/5views.htm](http://www.cr.nps.gov/history/online_books/5views/5views.htm).

<sup>105</sup> Robert Garcia *et al.*, *The Cornfield and the Flow of History: People, Place, and Culture*, Center for Law in the Public Interest 2 (2004) (available at [www.clipi.org](http://www.clipi.org)).

<sup>106</sup> Jeannine Gendar, *Grass Games & Moon Races: California Indian Games and Toys* 15 (1995).

<sup>107</sup> *Id.* at 17.

<sup>108</sup> *Id.* at 23.

<sup>109</sup> See *id.* at 20, 23, 25.

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culture and history. According to the Cornfield State Parks Advisory Committee:

The Cornfield site is a conduit to understanding the story of Los Angeles from its earliest beginnings. The local resources past, present, and future reveal cultural, economic, and historical narratives of a broader, region-wide scope reflective of the city at large through time. The location of the site at the city's heart along with the centrality of these resources present a unique opportunity in Los Angeles to forge a connection of people, history, and place by opening a window to understanding the past and tracing the present into the future.

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The site should embrace the spirit and hopes of the multi-ethnic communities whose histories and struggles are interwoven with the Cornfield. People have lived and worked in this vicinity for many generations.

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Flowing through the site, the zanja system for water distribution was an open (diversion) ditch. The zanja system was developed soon after the founding of the pueblo in September 1781 and served Los Angeles as the primary source of domestic and irrigation water until 1904.

*Cornfield State Park Advisory Committee, Recommendations Report: Vision, Themes, Community 9-12 (2003).*<sup>110</sup>

The rich cultural and heritage resources of the Cornfield and Taylor Yard are jeopardized by the HST as presented in the DEIS/R. The DEIS/R must analyze the impact of various alternatives on cultural and heritage resources like those related to the Cornfield and Taylor Yard.

### E. Economic Benefits, Small Business Opportunities, and Jobs

Communities surrounding the Cornfield and Taylor Yard are disproportionately poor and lack access to quality jobs, small business opportunities, and other economic benefits of public work projects like HST. The DEIS/R must thoroughly address how the Authority will ensure the fair distribution of the economic benefits generated by high speed rail.

LAUSD is currently investing over \$15 billion to build new schools and modernize existing schools, one of the largest public work projects in the nation. LAUSD has published reports on the policies and practices it has implemented to create a level playing field for small businesses and to provide job training and employment opportunities for local workers.<sup>111</sup> The Authority should study this best practice example and others and implement similar policies to fairly distribute the economic benefits

<sup>110</sup> Available on the web at <http://www.parks.ca.gov/pages/21491/files/RecommendationsReport.pdf>

<sup>111</sup> See, e.g., LAUSD Press Advisory, Los Angeles Unified School District Announces the "We Build" Program, July 13, 2004.

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of high speed rail.

Contracting practices can result in unequal access to jobs. Large contracts can make it difficult for small-scale contractors to compete. Small businesses are excluded through complicated bidding procedures and large-scale projects that could be broken down into efficient smaller projects. Service contracts can be targeted for minority and women-owned small businesses. Access to job training and employment can provide an opportunity for access to the economic benefits of high speed rail. Job training programs can help low-income residents fulfill the demand for skilled labor. Different ways of packaging work could realize administrative savings while improving opportunities for minority and women-owned businesses and a diverse labor pool.<sup>112</sup>

### F. Cumulative Impacts

NEPA and CEQA require public agencies to consider potential cumulative impacts.<sup>113</sup> This cumulative impacts analysis must consider past, present, and probable future transportation projects in the region or elsewhere in the western United States. Inconsistent with these requirements, the DEIR/S discussion of cumulative impacts is limited to present and future projects within areas that the HST would traverse.<sup>114</sup> This list leaves out key transportation projects such as the proposed expansion of Los Angeles International Airport ("LAX"). Failure to include such an important project undermines both the analysis and the credibility of the draft as a whole. The cumulative impacts analysis is unlawfully narrow in scope and limited in its discussion.

The DEIR/S fails to adequately specify mitigation measures for cumulative impacts. This failure is inconsistent with CEQA and NEPA. The Authority and FRA must prepare a specific and enforceable discussion of mitigation measures in a supplemental DEIR/S that is noticed and circulated for meaningful public comment.

### V. Request for Notification

Pursuant to California Public Resources Code Section 21092(b)(3), we request that the Authority mail any and all public notices or information concerning the DEIS/R to:

Robert Garcia  
 Executive Director  
 Center for Law in the Public Interest  
 3250 Ocean Park Boulevard, Suite 300  
 Santa Monica, California 90405

### VI. Conclusion

Four of the central lessons of the environmental justice movement are that communities of color and low income communities disproportionately suffer from environmental degradation, are denied the

<sup>112</sup> *Id.* at 243-47, 251-53.

<sup>113</sup> 40 C.F.R. § 1508.7; 14 Cal. Code Regs. §§ 15216, 15130

<sup>114</sup> DEIR/S at Appendix 3.17-A

O052-1  
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O052-1  
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**Comment Letter O052 Continued**

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Chairman Petrillo, Mr. Mehdi, Mr. Rutter, and Members of the High Speed Rail Authority  
Re: *California High Speed Train Draft EIR/EIS and Impact on the Cornfield and Taylor Yard*  
August 31, 2004  
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benefits of public benefits including parks, lack the information necessary to understand the impact of environmental policies on all communities, and are denied full and fair public participation in the decision making process.

The serious inadequacies of the DEIS/R are symptomatic of fundamental deficiencies in the project itself. The Authority may not approve the project unless the DEIS/R is revised and recirculated to fully disclose and analyze the project's impacts and a proper range of alternatives. Given the multiple inadequacies discussed above, this DEIS/R cannot properly form the basis of a final EIS/R. The document is so fundamentally inadequate that meaningful public review and comment are precluded.<sup>115</sup>

We recommend that the High Speed Authority meaningfully address our environmental and social justice concerns through a new DEIS/R.

Respectfully submitted,

CENTER FOR LAW IN THE PUBLIC INTEREST

Robert García, Executive Director  
Erica S. Flores, Assistant Director

August 31, 2004

O052-1  
cont.

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<sup>115</sup> See CEQA Guidelines § 15088.5.

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**Response to Comments of Robert Garcia and Erica S. Flores, Center for Law in the Public Interest, August 31, 2004 (Letter O052)**

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**O052-1**

Section I Overview: The Cornfield and Taylor Yard Properties are included and addressed in the Final Program EIR/EIS and will be subject to a full 4(f) analysis in future project-level environmental review. Subsequent project level analysis will allow for further avoidance and minimization efforts, as well as identification of specific mitigation, if impacts cannot be avoided. The Authority has identified the MTA/Metrolink, which avoids Cornfield property, as the preferred option. Between Burbank and Los Angeles Union Station, the MTA/Metrolink refers to a relatively wide corridor within which alignment variations will be studied at the project level. This option was chosen, in part, because it would have fewer potential affects on both the Cornfield Property and the Taylor Yards. Please also see standard response 6.24.2.

Section III The Legal Standards, 3. Federal Section 4(f) and 6(f) Resources: It is acknowledged that between 58 and 93 parkland resources could potentially be affected by the HST system. However, given the conceptual level of engineering performed for this programmatic environmental document it is premature and would be highly speculative to attempt to estimate specific physical impacts specific rail alignments to 4(f) and 6(f) resources. The more detailed engineering associated with the project level environmental analysis will allow further investigation of ways to avoid, minimize and mitigate potential use of 4(f) and 6(f) resources.

Section IV. Implementing the Vision and Values. C. Recreation and Human Health: Because recreational facilities (parks and designated recreational areas) are covered under Section 4(f) and 6(f), a separate section will not be created.

Section IV. Implementing the Vision and Values. F Cumulative Impacts. The expansion and redesign of the LAX terminal is a major project in southern California, however the addition of a runway at LAX is not a part of the current recommended alternative (Alternative D: Enhanced Safety and Security Alternative) in the LAX Master Plan Update.

Section V. Request for Notification: the Center for Law in the Public Interest will be added to the distribution list for the DEIS/EIR. All notices and information will be sent to:

Robert Garcia  
Executive Director  
Center for Law in the Public Interest  
3250 Ocean Park Boulevard, Suite 300  
Santa Monica, California 90405

Please also see response to Comment O051-1 and standard response 6.24.2. Please also see standard response 3.15.13 in regards to use of this program level document and level of detail. See O051-13 regarding recirculation of the Draft EIR/EIS.